

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF

UNITED STATES OF AMERICA,)
)
 Plaintiff)
)
 v.) Case No.
)
JAMES TAXPAYER, et al.)
)
 Defendants.)

MOTION FOR ORDER OF SALE

Pursuant to the Court's Final Judgment entered on August 5, 1996, which granted judgment in favor of the United States foreclosing federal tax liens, the United States moves for issuance of an Order of Sale of the subject property located in _____ County, _____, described as follows:

[Insert property description here]

A proposed Order of Sale is submitted herewith.

United States Attorney
_____ District of _____

Trial Attorney, Tax Division
U.S. Department of Justice
Post Office Box _____
Washington, D.C. 20044
Telephone: (202) _____

IN THE UNITED STATES DISTRICT COURT
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UNITED STATES OF AMERICA,)
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 Plaintiff,)
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 v.) Case No.
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 Defendants.)

ORDER OF SALE

A final judgment was entered by this Court in the above-entitled action, on August 5, 1996, ordering that plaintiff's federal tax liens be foreclosed and that the subject property, described below, be sold pursuant to 28 U.S.C. § 2001.

[Insert property description here]

Accordingly, it is hereby ORDERED as follows:

1. The United States Marshal for the _____ District of _____, or such representative as [s]he may appoint or employ, is authorized and directed under 28 U.S.C. §§ 2001 and 2002 to offer for public sale and to sell the subject property.

2. The Marshall or [her] his representative is authorized to have free access to the Property and to take all actions necessary to preserve the Property, including, but not limited to, retaining a locksmith or other person to change or install locks or other security devices on any part of the property, until the deed to the Property is delivered to the ultimate purchaser.

3. The terms and conditions of the sale are as follows:

a. the sale of the Property shall be free and clear of the interests of [name all parties].

b. the sale shall be subject to building lines, if established, all laws, ordinances, and governmental regulations (including building and zoning ordinances) affecting the Property, and easements and restrictions of record, if any;

c. the sale shall be held either at the courthouse of the county or city in which the Property is located or on the Property's premises;

d. the date and time for sale are to be announced by the United States Marshal or his representative;

e. notice of the sale shall be published once a week for at least four consecutive weeks before the sale in at least one newspaper regularly issued and of general circulation in County, and, at the discretion of the Marshal or his representative, by any other notice that [s]he or his [her] representative deems appropriate. The notice shall contain a description of the property and shall contain the terms and conditions of sale in this order of sale;

f. The minimum bid is \$. If the minimum bid is not met or exceeded, the Marshal or his [her] representative may, without further permission of this Court, and under the terms and conditions in this order of sale, hold a new public sale, if necessary, and reduce the minimum bid;

g. the successful bidder(s) shall be required to deposit at the time of the same with the Marshal or his [her] representative a minimum of ten percent of the bid, with the deposit to be made

by certified or cashier's check or cash payable to the United States District Court for the _____ District of _____. Before being permitted to bid at the sale, bidders shall display to the Marshal or his [her] representative proof that they are able to comply with this requirement. No bids will be received from any person(s) who have not presented proof that, if they are the successful bidders(s), they can make the deposit required by this order of sale;

h. the balance of the purchase price for the Property is to be paid to the clerk of this Court within six days after the date the bid is accepted, by a certified or cashier's check payable to the United States District Court for the District of _____. If the bidder fails to fulfill this requirement, the deposit shall be forfeited and shall be applied to cover the expenses of the sale, including commissions due under 28 U.S.C. § 1921(c), with any amount remaining to be applied to the income tax liabilities of [name[s] of taxpayer[s] at issue herein. The realty shall be again offered for sale under the terms and conditions of this order of sale. The United States may bid as a credit against its judgment without tender of cash; and

i. the sale of the property shall be subject to confirmation by this Court. On confirmation of the sale, the Marshal shall execute and deliver a quit claim deed conveying the property to the purchaser. On confirmation of the sale, all interests in, liens against, or claims to, the property that are held or asserted by all parties to this action are discharged and extinguished. The Marshal shall make return of the Confirmation

of Sale for each property, with his [her] proceedings endorsed thereon, showing the manner in which [s]he has executed the same, within sixty days from the date of the sale of each property.

j. the sale is ordered pursuant to 28 U.S.C. § 2001, and is made without right of redemption.

10. Until the property is sold, [name of taxpayer[s] shall take all reasonable steps necessary to preserve the property (including all buildings, improvements, fixtures and appurtenances on the property) in its current condition including, without limitation, maintaining a fire and casualty insurance policy on the property. They [[s][he] shall neither commit waste against the property nor cause or permit anyone else to do so. They [[s]he] shall neither do anything that tends to reduce the value or marketability of the property nor cause or permit anyone else to do so. The defendants shall not record any instruments, publish any notice, or take any other action (such as running newspaper advertisements or posting signs) that may directly or indirectly tend to adversely affect the value of the property or that may tend to deter or discourage potential bidders from participating in the public auction, nor shall they cause or permit anyone else to do so.

11. All persons occupying the property shall leave and vacate the property permanently within 30 days of the date of this Order, each taking with them his or her personal property (but leaving all improvements, buildings, fixtures, and appurtenances to the property). If any person fails or refuses to leave and vacate the property by the time specified in this

Order, the Marshal and his [her] deputies are authorized and directed to take all actions that are reasonably necessary to bring about the ejectment of those persons. If any person fails or refuses to remove his or her personal property from the property by the time specified herein, the personal property remaining on the property thereafter is deemed forfeited and abandoned, and the Marshal and his [her] deputies are authorized to remove it and to dispose of it in any manner they see fit, including sale, in which case the proceeds of the sale are to be applied first to the expenses of sale and the balance to be paid into the Court for further distribution.

The proceeds arising from sale are to be paid to the Clerk of this Court and applied as far as they shall be sufficient to the following items, in the order specified:

1. To the Marshal for the costs of the sale;
2. To all taxes unpaid and matured that are owed to _____ County for real property taxes on the property;
3. To the federal income taxes of [specify name[s] of taxpayer[s]] for [specify tax period(s) covered by the judgment] plus all interest and penalties due and owing thereon;

Any balance remaining after the above payments shall be held by the Clerk until further order of the Court.

United States District Judge

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 Defendants.)

NOTICE OF MARSHAL'S SALE

By virtue of an Order of Sale issued by the United States District Court for the _____ District of _____ in this case, I will, on _____, the ____ day of _____, 199_, at __o'clock __-m., at the front door of the County Courthouse, offer for sale at public auction and sell to the highest bidder, under the terms of sale that are set forth below, all of the right, title and interest of defendants [specify name[s] of taxpayer[s]] and all other parties to this action in and to the following described real estate, located in County, and, described as follows:

[insert property description]

The property will be sold without appraisal, subject to any unpaid real property taxes or special assessments to satisfy the Order of Sale, The minimum bid to be accepted is \$____. No bid is to be accepted unless the bid is accompanied by a cash deposit in the form of a certified check, cashier's check or cash in the

amount of ten percent of the bid price. The successful bidder shall tender the balance of the purchase price by certified check or cashier's check to the United States District Court for the _____ District of _____ within six days (exclusive of Saturday, Sunday and federal holidays) from the date of auction. In the event that the successful bidder defaults on any of the terms contained herein, the deposit shall be forfeited and retained by the United States District Court for the _____ District of _____ and the real property shall again be offered for sale in the same manner as set forth herein.

The sale of the real property is ordered pursuant to 28 U.S.C. Section 2001, and is made without right of redemption.

United States Marshal's Office, [City, State], this _____ day of _____, 199__.

United States Marshal
_____ District of _____
(address)
Telephone: () -_